

1895-045 Chancery Causes: A. B. F. McElroy & vs. James W. Orr, admr.
Lee Co.

Beasley, Noel, Pennington, Webb, Nickelston, Beasley

CA-Estate Dispute

T-Property

A. B. F. McElroy et al.

vs.

James W. Orr, Admr., et al.

Bill in Chancery.

To The Honorable W. T. Miller,

Judge of the Circuit Court for Lee County, Va.:

Complainants, A. B. F. McElroy, H. H. McElroy, an infant who sues by his next friend A. B. F. McElroy, David McElroy, William E. McElroy, Henry Beasly and Laura Beasly, his wife, David Noe and Namine C. Noe, his wife, Charles Pennington and Mary A. Pennington, his wife, James Webb and Lavinia J. Webb, his wife, John Nickelston and Rhoda Nickelston, his wife, state ~~xx~~ unto Your Honor as follows:

On December 25th, 1877, A. J. B. McElroy died intestate, leaving a widow who has since departed this life, and leaving the following children, his heirs at law and distributees of his personal estate, to-wit: ^{Complainants} A. B. F. McElroy, H. H. McElroy

David McElroy, Laura Beasly, Namine C. Noe, Mary A. Pennington, Lavinia J. Webb and Rhoda Nickelston. Shortly thereafter one James W. Orr was duly appointed by order of Lee County Court ^{a copy of which is herewith filed as exhibit No. 1} and qualified as the administrator of the estate of the said A. J. B. McElroy, and he thereafter took possession and

control of the personal estate left by the said A. J. B. McElroy, which estate complainants aver was large and valuable. ^{and has converted the same into her share of the same}

Since then, as complainants are informed and believe, the said Orr has paid out some sums in payment of the debts of the said decedent; but complainants are informed, believe and charge

that the whole of the personal estate which came into the hands of the said administrator was not and has not been necessary for the payment of said decedent's debts, and complainants charge that the said Orr now has, or ought to have of right, in his hands large sums of money which ^{belong to and} should be distributed equally amongst all the nine heirs at law of the said decedent.

Complainants charge that the said Orr has never made a ^{and that all the debts of his decedent have been paid} settlement of his accounts as administrator. They further state and charge that he has wasted and lost large and valuable portions of said estate, and large sums of money; and that he now has in his hands considerable sums of money that should of right be turned over to the said distributees.

Wherefore, being without remedy at law complainants prayer is that James W. Orr, and the same James W. Orr, Administrator of the estate of A. J. B. McElroy, deceased, be made parties defendant to this bill, and be required to answer the same, but not under oath, that being waived; that he be required to state in full what sums of money and what other personal estate left by the said A. J. B. McElroy came into his hands, and the time when; what, if any, sums he has paid out on the debts of the said McElroy and when; what sums he now has in his hands belonging to the said estate; and all such other matters and things as may be pertinent to the aforesaid matters; that a commissioner be appointed by Your Honor with directions to take and state a full and accurate account of the said defendants administration of the said estate, showing with what sums and from what ^{debts} ~~debts~~ he is chargeable, and with what sums and from what ^{debts} ~~debts~~ he should be

credited, and the balance, if any, in the said administrator's hands belonging to the said estate and the distributees there-
and that said defendant may be required to pay to Complainants so much of said estate as may
of; that process may issue, and in addition to the special re-
lief above prayed for, for all such other, further and general
relief as may be proper. And your orator's will ever pray.

H.C. McDowell, Jr.,
P. L.

Complainants
by counsel

now in his hands as no right to be his hands

A.B. F. McElroy et al

vs } Bill in Chancery.

James W. Orr, Admr. et al

1894 2nd July Rules bill
filed Spa 24d + D. M.

" 1st Aug rules D. M. Conf
+ Cause set for hearing

Frank McElroy et al.

Plffs

against

James W Orr Admr of A. J. B.

McElroy deceased. et al.

Defts

In Chancery

On motion of the plaintiffs this cause
is dismissed

Frank McElroy et als
vs } Order final,
B }
J. W. Orr Attorney

Entered in
Chancery CB
Pag 205
Enter this Order.
M. J. M.
June 7th 1895.

James W Orr Administrator of the Estate of A. J. B. McElroy deceased and purchaser of the real estate of said A. J. B. McElroy decd.

1881.	To the Creditors and distributees of said Est.		On
Jan'y 25th	To this sum principal money unaccounted for arising from the personal Estate, See Statement "A. E" in ch'g suit aff. W. Orr Adminr vs John McElroy	\$ 753.50	
	" this sum accumulated interest shown in said statement	\$ 46.22	
	" " " Int on \$ 753.50 for one year	\$ 45.21	
	" " " Total Charges Jan'y 25th 1881.	\$ 91.21	\$ 753.50
	By 10 % Com on \$ 45.21 receipts for year	\$ 4.52	
1.	" this sum paid taxes for year 1879.	12.23	
2.	" " " " " " " 1880.	12.36	
3.	" " " " A. J. Wilson on claims	42.75	
4.	" " " " A. J. Litton " "	42.66	
5.	" " " " Baxter Harrison "	5.00	
6.	" " " " T. B. A. James "	2.12	
7.	" " " " Clerks fee bills "	9.68	
18	" " " " on note to Mary Chandler Shurtz (fees)	31.58	
19	" " " Int' thereon from May 3" 1878, to Jan'y 25" 1881.	5.15	
20	" " " Cash paid same on said note Oct 28" 1878.	40.00	
21	" " " Int' thereon to Jan'y 25" 1881.	5.40	
22	" " " cash paid same on same	24.00	
23	" " " Int' from June 12th 1879, to Jan'y 25" 1881.	2.33	
24	" " " Cash paid same on same May 19" 1880.	22.55	
25	" " " Int on same to Jan'y 25" 1881.	.72	
8. 26	" this sum paid A. L. Bridenmore on Deed Trust.	200.00	
9. 27	" " " " Same on same.	158.32	
28	By this sum prin to square this year.	131.93	\$ 753.50
1882. 29	To this sum debits brought down Prin	\$ 131.93	
Jan'y 25th	" " " Interest thereon one year.	7.71	
31	" " " accumulated Int. brought over	91.21	
32	Total Charges to Jan'y 25" 1882,	\$ 231.05	
10. 33	By this sum paid taxes for 1881.	\$ 11.70	

See Statement of payments on
Chandler's \$1000.00 debt as
reported by A. J. Wilson
in said case of Mary
Chandler vs J. W. Orr Adminr &c.

11.	By this sum paid A. L. Bridmore atty.		57.82
12	" " " " Mary Chandler & Int		52.55-
2	" " " " for making & recording Settlement.		6.00
3	" 10 % Com on \$7.91 receipts.		.79
4	" this sum unaccounted for to square.		122.29 1231.05-
5	To this sum bal. brought down.		122.29
1881.	To this sum purchase price of home tract of land.	\$2300.00	
June 21st.	By cash paid down to Court H. J. Morgan.	500.00	1800.00
8	To Int thereon to Jan'y 4 th 1882.		57.60
9	" this sum total debits Jan'y 26 th 1882.		\$1777.89
A.	By this sum paid A. L. Bridmore on Deed Trust.		200.00
11	To Interest on bal to June 10 th 1882.		1777.89
			46.27
B.	By this sum paid A. L. Bridmore on D. Trust.		1826.16
	To Int on bal to Nov 26 th 1882.		100.00
13			1126.16
			30.96
C.	By this sum paid Hurst & Shelburne Claim		1157.12
15	To Int on bal to June 1 st 1883.		291.95-
D.	By this sum paid Mr A Orr atty	\$ 24.93	865.17
E.	" " " " C. T. Dumeau "	36.09	26.82
18	To Int on bal to June 8 th 1883.		\$891.99
F.	By this sum paid G. C. Duff on claim	25.00	830.97
G.	" " " " A. J. Litton "	77.48	.83
21	To Int on bal to Aug 1 st 1883.		\$831.80
H.	By this sum paid P. A. Allen claim,		102.48
23	To Int to Aug 9 th 1883.		729.32
I.	By this sum paid A. J. Litton		6.43
25	To Int on bal to May 15 th 1884.		\$733.75-
1883.			29.37
Aug 9 th			\$706.38
			.94
			\$707.32
			165.53
			\$541.79
			24.92
			\$566.71
J.	By amt paid Mrs Chandler	\$50.00	
K.	" " " " Cowan McCloskey	98.83	148.83
29	To Int on bal to April 9 th 1885.		\$417.88
30	By this sum paid Mrs Chandler		22.56
31	To purchase price of Gray tract of land Nov 3 rd 1879.		\$440.44
32	" Int thereon to April 9 th 1885.		28.00
33	" purchase price of Dirkins tract Jan'y 22 nd 1884.		\$416.44
	" Int thereon to April 9 th 1885.		241.00
			88.20
			313.80
			22.90
			\$1081.34

See Morgan's
Statement.

See Morgan's
Statement.

By cash paid Mrs Chandler Apr 30th 1885.	100.00
To Int on \$970.24 from unaccounted for to Aug 25th 1885.	\$981.34
	16.97
By cash paid Mrs Chandler Aug 25th 1885.	\$998.31
To Int on bal to Jan 22nd 1886.	30.00
	\$968.31
	23.72
	\$992.03
M. By cash paid A. L. Pridemore on D. Trust	50.00
To Int on bal to April 29th 1886.	\$942.03
	15.07
	\$957.10
M. By cash paid A. L. Pridemore on D. Trust	50.00
To Int on bal to June 5th 1886.	\$907.10
	5.44
	\$912.54
M. By cash paid A. L. Pridemore on D. Trust.	143.60
N. By " " A. J. Wilson bal from Int	\$768.94
	241.68
O. By cash paid A. L. Pridemore bal in full	\$527.26
of his Deeds Trust as of June 5th 1886. as shown	
by settlement as of May 1st 1886. this sum	\$566.78
This sum overpaid to square June 5th 1886.	39.52
Standing of account June 5th 1886.	\$566.78
By this sum overpaid to square	\$39.52
July 5th. " " " Int thereon to July 5th 1894.	19.12
" " " paid Mrs Chandler Feb 4th + Mar 22nd 1887.	29.11
" " " Int thereon to July 5th 1894.	12.73
P. " " " paid J. A. G. Hyatt fee bill	4.79
" " " Int thereon to July 5th 1894.	2.24
Q. " " " paid Costs in Court of Appeals	43.50
" " " Int from May 15th 1889 to July 5th 1894.	13.24
R. " " " paid Costs in Circuit Court Lee County	21.64
S. " " " " Mary Chandler bal her debt on Justs Court ^{of Appeals}	1014.24
" " " Int thereon from Oct 27th 1890 to July 5th 1894.	224.48
This sum overpaid after liquidating all	\$1424.11
liabilities. Int added to July 5th 1894.	\$1424.11

To the Hon County Court,

of Lee County Virginia.

The undersigned Commissioner of
accounts for said County, respectfully reports, that a year
to two ago, he advertised as the law requires, that the

account of James W. Orr Administrator of the estate
of A. L. S. McCloy decd. was before him for settlement
but for some cause or other the settlement was not
made until on this the 5th day of July 1894, I have
prepared a statement of said account, hereto attached
in which I have charged the said Admr with
\$753.50 bal principal and with \$46.00 Interest, the balance
shown to be in his hands, by the settlement made by
Comr W. J. Morgan in the Chancery cause brought by
said Orr Admr vs against John McCloy et als, and
lately determined in the Circuit Court of Lee County,
and with \$45.21 the interest on the principal due to
him on 25th / 88, and have given him credit for
Vouchers from 1 to 12 inclusive, as well as for
payments set out in Comr W. J. Morgan's report in
the Law cause of Mary S. Chandler vs James W. Orr
resulting in showing that said Admr had accounted
for all the personal estate which came to his hands
except \$122.29 Vouchers for the payments are herewith
filed marked as in the margin. The suit just referred
to was brought by the Admr for the settlement of said
Estate, and in said suit the debts were ascertained and
reported, and the personal estate shown to be by far
insufficient to be the debts, the real estate was deemed
to be sold to pay said indebtedness, and at the sale
of the real estate, the Admr became the purchaser
of a portion thereof, and in paying for the real estate
purchased by him, he paid to the creditors whose debts
had been reported against said estate. And in order
to properly show the entire transaction, I have in the
statement of his account charged him with \$2300.00 the
amount of his purchase price of the same place and
given him credit with \$500.00 paid down by him at the
time of his purchase leaving \$1800.00 to be accounted

for him, and with \$241.00 the amount for a portion of the Gray tract of land sold under a deed of trust executed to secure the payment of the Chandler debt and with \$313.80 the amount of J. W. Wilson's purchase of Dirkens land, which was paid to said Admr, and disbursed by him, and I have given him credit for payments made by him to the various creditors as reported, charging him interest on all balances remaining unpaid upon the principals of partial payments, Vouchers for all payments are herewith filed marked as in the Margin, and have calculated interest on all overpayments made by him down to this date, showing that the said Admr has overpaid all his said liabilities to said Estate on the 5th July, 1894 the sum of \$1424.11.

In the report of Judge Morgan, Comr in the Chancery Cause, of the outstanding debts against said Estate, he reported \$101.80 as being the balance due on the Chandler debt, but sometime afterwards Mary Chandler Admr of the Estate of James Chandler decd instituted suit at law on the note in the Circuit Court of this County against James W Orr survivor of himself and A. L. B. McElroy decd, and recovered judgment for \$766.29 and the costs, and Mr Orr feeling aggrieved by the judgment and anxious to reverse it if possible and save the same to the Estate, took an appeal to the Court of Appeals, and in said last Court the judgment of the Court below was affirmed with costs against the appellant, and as will be seen by reference to Voucher, "B", when the Admr paid off said judgment Octo 27, 1890 the same amounted to \$1014.24 besides some ^{other} costs &c in Court of Appeals and his attorneys fees paid by him. The proceedings in said Chancery Cause, and also in the law cause are here referred to as furnishing a great many facts and figures used in making this Settlement

and report. Vouchers for some of the credits allowed
the ~~Shure~~ for payments on the Chandler debt are not
here filed, but the credits were given in the suit at
law by Court Morgan, and are shown in his report,
reference to which is here made, and I have no doubt
but what they are all properly entered and correct and
just credits, as the matter was there closely, fully and
hotly litigated, and judgment rendered for the balance
found due. All of which is respectfully submitted.
July 5th 1874.

J. A. G. Hyatt, Com-
missioner of Accounts.

Receipt.

Lee County Court continued, and held for Lee County
at the Court house thereof, on Wednesday August 22nd 1874.
James W Orr administrator of the Estate of A. L. S. McElroy
decd. this day produced to the Court a settlement of his
administrators account made by J. A. G. Hyatt Com-
missioner of accounts for Lee County, which settlement
and report having been filed in the office of the Clerk
of this Court the time required by law and unexcepted
to, seen and inspected by the Court is confirmed and
ordered to be recorded.

A copy - Teste, S. V. F. Richmond, Clerk.
A copy Teste, J. W. F. Richmond com

James W. Orr Admre

Settlement of his
account.

C 2.00

Clerk's Office Lee Circuit Court,

June 23rd, 1894.

A. B. F. McElroy, et al.

vs.

James W. Orr, Admr., et al.

Memorandum.

Complainants are A. B. F. McElroy, H. H. McElroy, an infant who sues by A. B. F. McElroy his next friend, David McElroy, William E. McElroy, Henry Beasly and Laura Beasly, his wife, David Noe and Nannie C. Noe, his wife, Charles Pennington and Mary A. Pennington, his wife, James Webb and Lavinia J. Webb, his wife, ~~James~~ John Nickelston and Rhoda Nickelston his wife.

Defendants are James W. Orr, and James W. Orr, administrator of the estate of A. J. ^BMcElroy, deceased.

Bill in Chancery.

Issue subpoena to sheriff of Lee County with two copies, one for service on James W. Orr; personally, and the other on Judge Orr as administrator.

Make subpoenas returnable to second July Rules.

Get from County Court Clerk certified copy of order of County Court appointing Jas. W. Orr, Administrator of A. J. B. McElroy's estate, dated I think in January 1878, & file it with bill as exhibit No.

A C McDowell, Jr.
P. L.

A. B. F. W. E. Roy, et al

vs. Memorandum.

James W. Orr, Adm'r, et al.

Office of the Circuit Court.

June 1st, 1861.

James W. Orr, Adm'r, et al.
vs. A. B. F. W. E. Roy, et al.
Memorandum.
The following is a summary of the facts and circumstances of the case, as presented by the parties, and as they appear from the evidence.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*James W Orr and
James W Orr Administrator*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held
for the said Court on the *3rd* Monday in *July*, 189*4*, to

answer a bill in Chancery, exhibited against *him* in our said court by

*A. B. F. McElroy, H. H. McElroy an
infant who Sues by A. B. F. McElroy his
next friend, David McElroy, William E. McElroy,
Henry Beasley and Laura Beasley his wife,
David Roe and Nannie C. Roe his wife, Charles
Pennington and Mary A. Pennington, his wife,
James Webb and Lavinia J. Webb, his wife
John Nickelston and Rhoda Nickelston his
wife*

And have then there this writ.

court-house, the *30th*

year of the Commonwealth.

Witness, A. B. MUNSEY, Clerk of our said Court, at the

day of *June* 189*4*, and in the *118th*

A. B. Munsey Clerk.

A. B. F. McElroy et al

vs. }

SUBPENA
IN CHANCERY.

James W. Orr

H. B. McDowell p. q.

To 2nd July Rules,
Circuit Court.

Executed July the 3. 1884
By delivering and office copy
of the writ in summa to
James W. Orr. also and
office copy to James W.
Orr. administrator.
This July the 3. 1884
C. E. Flannery. S. L. C

A.B. F. McElroy et al.
vs $\frac{3}{4}$ In Chancery.
James H. Orr, Advers et al.

1894 2nd July rules bill filed
Sumo Executed & Decree
Nisi
" 1st August rules Decree Nisi
Confirmed & Cause set for
hearing by Plaintiff

Plffs Costs C 328
S 100
Co C 200
\$6.25

June Term 1898 Decree
final O. B. 6; P 208

H. C. McDowell Jr. for Plff.
Duncan & Hyatt for Deft.